

Senate File 399 - Introduced

SENATE FILE 399
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1122)

A BILL FOR

1 An Act relating to radon control and making penalties
2 applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 103A.8D Residential construction
2 requirements and standards for radon control.

3 The state building code commissioner shall adopt as a part
4 of the state building code construction requirements and
5 standards for radon control in new residential construction.
6 The requirements and standards adopted by the commissioner
7 shall be based upon the radon control method requirements of
8 the most recent international residential code published by
9 the international code council. Notwithstanding any other
10 provision of this chapter to the contrary, the construction
11 requirements and standards for radon control adopted by the
12 commissioner and approved by the council shall apply to new
13 residential construction commenced on or after January 1, 2017,
14 and shall supersede and replace any minimum requirements and
15 standards for radon control in new residential construction
16 adopted or enacted by a governmental subdivision prior to
17 that date. The state building code commissioner may provide
18 training to builders, contractors, and other interested persons
19 on the construction requirements and standards for radon
20 control in residential construction. A builder of a residence
21 for resale shall install a passive radon mitigation system in
22 the residence and shall notify the buyer of the residence that
23 radon testing can be obtained for the residence. A builder of
24 a residence for resale shall not represent to the buyer of the
25 residence that a passive radon mitigation system will remediate
26 the presence of radon.

27 Sec. 2. Section 103A.10, Code 2015, is amended by adding the
28 following new subsection:

29 NEW SUBSECTION. 6. Notwithstanding any other provision of
30 this chapter to the contrary, the construction requirements and
31 standards for radon control in new residential construction
32 adopted by the commissioner and approved by the council shall
33 apply to all new residential construction commenced on or after
34 January 1, 2017, and shall supersede and replace any minimum
35 requirements or standards for radon control in new residential

1 construction adopted or enacted by the governmental subdivision
2 prior to that date. A builder of a residence for resale shall
3 not be liable for any claims related to radon control standards
4 or requirements after the conveyance of the residence.

5 Sec. 3. Section 136B.1, subsections 2 and 3, Code 2015, are
6 amended to read as follows:

7 2. The department shall establish programs and adopt rules
8 for the certification of persons who test for the presence of
9 radon gas and ~~radon progeny~~ in buildings, the credentialing of
10 persons abating the level of radon in buildings, and standards
11 for radon abatement systems.

12 3. Following the establishment of the certification
13 and credentialing programs by the department, a person who
14 is not certified, as appropriate, shall not test for the
15 presence of radon gas and ~~radon progeny~~, and a person who is
16 not credentialed, as required, shall not perform abatement
17 measures. This section does not apply to a person performing
18 the testing or abatement on a building which the person
19 owns, or to a person performing testing or abatement without
20 compensation.

21 Sec. 4. Section 136B.2, subsection 1, paragraph b, Code
22 2015, is amended to read as follows:

23 *b.* A person shall not disclose to any other person, except
24 to the department, the address or owner of a nonpublic building
25 that the person tested for the presence of radon gas and ~~radon~~
26 ~~progeny~~, unless the owner of the building waives, in writing,
27 this right of confidentiality. Any test results disclosed
28 shall be results of a test performed within the five years
29 prior to the date of the disclosure.

30 Sec. 5. Section 136B.2, subsection 2, Code 2015, is amended
31 to read as follows:

32 2. *a.* Notwithstanding the requirements of this section,
33 disclosure to any person of the results of a test performed
34 on a nonpublic building for the presence of radon gas and
35 ~~radon progeny~~ is not required if the results do not exceed the

1 currently established United States environmental protection
2 agency action guidelines.

3 *b.* A person who tests a nonpublic building which the person
4 owns is not required to disclose to any person the results of
5 a test for the presence of radon gas ~~or progeny~~ if the test is
6 performed by the person who owns the nonpublic building.

7 Sec. 6. Section 136B.3, Code 2015, is amended to read as
8 follows:

9 **136B.3 Testing and reporting of radon level.**

10 The department or its duly authorized agents shall from time
11 to time perform inspections and testing of the premises of a
12 property to determine the level at which it is contaminated
13 with radon gas ~~or radon progeny~~ as a spot-check of the validity
14 of measurements or the adequacy of abatement measures performed
15 by persons certified or credentialed under section 136B.1.
16 Following testing the department shall provide the owner of
17 the property with a written report of its results including
18 the concentration of radon gas ~~or radon progeny~~ contamination
19 present, an interpretation of the results, and recommendation
20 of appropriate action. A person certified or credentialed
21 under section 136B.1 shall also be advised of the department's
22 results, discrepancies revealed by the spot-check, actions
23 required of the person, and actions the department intends to
24 take with respect to the person's continued certification or
25 credentialing.

26 Sec. 7. Section 136B.4, Code 2015, is amended to read as
27 follows:

28 **136B.4 Fees — rules.**

29 1. The department shall establish ~~a fee schedule to~~
30 ~~defray the costs of~~ and collect fees for the certification
31 and credentialing programs established pursuant to section
32 136B.1 and the testing conducted and the written reports
33 provided pursuant to section 136B.3. Fees collected pursuant
34 to this section shall be retained by the department and
35 shall be considered repayment receipts as defined in section

1 8.2 and shall be used for the purposes described in this
2 section, including but not limited to the addition of full-time
3 equivalent positions for program services and investigations.

4 2. The department shall adopt rules, pursuant to chapter
5 17A, to implement this chapter.

6 Sec. 8. TRANSFERS.

7 1. For each fiscal year of the period beginning July 1,
8 2015, and ending June 30, 2017, the department of public health
9 shall provide for transfers of fees collected under section
10 136B.4, as enacted in this Act, to reimburse the office of the
11 state building code commissioner in the department of public
12 safety for the actual costs of implementing and administering
13 this Act, up to \$100,000.

14 2. Notwithstanding any provisions of section 8.39 to the
15 contrary, if the transfer of fees pursuant to subsection 1 for
16 each fiscal year of the period beginning July 1, 2015, and
17 ending June 30, 2017, are insufficient to reimburse the office
18 of the state building code commissioner for the actual costs,
19 up to \$100,000, of implementing and administering this Act, the
20 department of public health shall provide for the transfer from
21 funds appropriated to the department of public health of an
22 amount equal to the difference between \$100,000 and the amount
23 transferred pursuant to subsection 1.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill requires that the building code commissioner,
28 with the approval of the building code advisory council, adopt
29 requirements and standards for radon control in new residential
30 construction. The bill provides that the standards shall
31 supersede and replace any minimum radon control requirements
32 and standards for new residential construction adopted by
33 governmental subdivisions in Iowa. The bill requires that
34 the requirements and standards be mandatory for all new
35 residential construction beginning on or after January 1, 2017.

1 The bill also includes certain installation and notification
2 requirements for builders of residences for resale and limits
3 a builder's liability following the conveyance of such a
4 residence.

5 Any person who fails to comply with an order to remedy
6 any condition in violation of the adopted requirements and
7 standards within 30 days after service or within the time
8 fixed for compliance, whichever is longer, shall be guilty of
9 a simple misdemeanor pursuant to Code section 103A.21. Any
10 owner, builder, architect, tenant, contractor, subcontractor,
11 construction superintendent or their agents, or any other
12 person taking part or assisting in the construction or use
13 of any building or structure who knowingly violates such
14 requirements and standards shall also be guilty of a simple
15 misdemeanor. A simple misdemeanor is punishable by confinement
16 for no more than 30 days or a fine of at least \$65 but not more
17 than \$625 or by both.

18 The bill strikes references to radon progeny in the Iowa
19 Code, provides that fees collected by the department of public
20 health for radon programs and testing be retained by the
21 department, and provides for certain transfers of moneys from
22 the department of public health to the office of the state
23 building code commissioner.